

5/027/057



United States Department of the Interior  
BUREAU OF LAND MANAGEMENT  
FILLMORE FIELD OFFICE

35 East 500 North  
Fillmore, Utah 84631



RECEIVED

NOV 12 2003

DIV. OF OIL, GAS & MINING

In Reply Refer to:  
3800  
(U-010)  
UTU-072854

November 7, 2003

CERTIFIED MAIL #7002 3150 0004 1699 4063  
RETURN RECEIPT REQUESTED

DECISION

JACK ROBERTS	:	
3 GUYS ROCK AND GEM	:	43 CFR 3809
PO BOX 356	:	SURFACE MANAGEMENT
FILLMORE UT 84631	:	

Notice Expired-Reclamation Required

Notice UTU-072854 was filed with this office on September 6, 1994, and transferred to you on October 30, 2000. § 3809.300(a) of the Surface Management regulations requires that an operator wishing to extend his/her notice which was on file as of January 20, 2001, notify the Bureau of Land Management (BLM) in writing on or before the expiration date, January 20, 2003, and meet the financial guarantee requirements of § 3809.503. The BLM did not receive written notification that you wished to extend your notice by January 20, 2003 (extended to January 21, 2003 due to a Federal holiday). Because you did not meet the requirements under § 3809.333, your notice, UTU-072854, expired on January 20, 2003.

Pursuant to § 3809.300(d), you may not conduct operations under an expired notice. If you wish to resume operations, you may postpone reclamation if you file either a new notice pursuant to 43 CFR 3809.301 or a plan of operations (plan) pursuant to § 3809.401 within 30 days from receipt of this decision. The performance standards outlined in § 3809.420 and the financial guarantee requirements provided in § 3809.500, et seq., apply to both notices and plans. The notice must be accepted or the plan must be approved, and a financial guarantee accepted prior to any additional earth disturbing activities occurring at this site. If the newly submitted notice is not accepted or the plan is not approved, or you do not timely post the appropriate financial guarantee as requested for either a notice or a plan, you must begin reclamation within 30 days of BLM's decision finding that the new notice or plan or financial guarantee is incomplete or unacceptable.

If you do not submit a new notice or plan within 30 days from receipt of this decision, reclamation must begin on the 31<sup>st</sup> day, and be



completed at the earliest feasible time, unless you contact this office and gain approval to postpone commencement. To ensure that you meet the standards described in § 3809.420(b)(2 and 3) (identical to § 3809.1-3(d)(2 through 4) of the regulations effective immediately before January 20, 2001), an inspection of the site subject to your notice was conducted on July 9, 2003 and revealed the following items that must be completed:

1. Re-contour, scarify and seed all surface disturbance associated with the operation, including: pit excavations and access road.

In accordance with § 3809.420(b)(3)(iii) (identical to § 3809.1-(d)(5) of the regulations effective immediately before January 20, 2001), you must notify this office upon completion of reclamation. BLM will schedule an inspection to verify whether you have met your reclamation obligations and notify you promptly in writing of the results of the inspection and close your notice if appropriate.

Your reclamation obligation continues beyond the expiration of your notice until such time as BLM determines that the reclamation is satisfactorily completed. Failure to begin reclamation promptly or to conduct reclamation to BLM specified standards is subject to the enforcement actions specified in § 3809.601 to § 3809.701.

If you do not agree and are adversely affected by this decision, in accordance with § 3809.800, you may request that the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in § 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision regarding your request for review of this decision within 21 days of BLM's receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Utah BLM State Office to determine when BLM receives the request for State Director Review. You have 30 days from the end of the 21-day period in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to bypass a State Director review, this decision may be appealed directly to the IBLA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office at 35 East 500 North, Fillmore, UT, 84631 within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

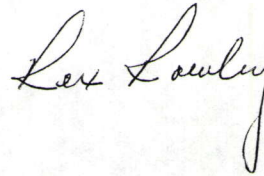


If you wish to file a petition pursuant to regulations § 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see § 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellants success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.



Enclosures:

Form 1842-1

43 CFR 3809 Regulations

cc: Tom Munson, UDOGM (S/027/057)